

New York Law Journal

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New York City Bar Association Calls for Congressional Probe of US AG William Barr

The city bar took no position on whether Barr may have violated the Rules of Professional Conduct, but expressed "significant concerns" about the propriety of his recent statements.

By Tom McParland | January 09, 2020



U.S. Attorney General William Barr testifying before a congressional committee on May 1, 2019. Photo: Diego M. Radzinski/ALM

The New York City Bar Association called on Congress to open formal inquiries into the conduct of U.S. Attorney General William Barr, citing multiple public statements that the organization said threaten “public confidence in the fair and impartial administration of justice.”

In a Jan. 8 letter

(<https://images.law.com/contrib/content/uploads/documents/389/92685/NYC-Barr-Inquiry-Letter.pdf>) to congressional leaders, the city bar decried a “pattern” of behavior that was inconsistent with the office of the attorney general and positioned Department of Justice lawyers as “political partisans willing to use the levers of government to empower certain groups over others.”

“These statements are the latest examples of a broader pattern of conduct that is inconsistent with the role of the attorney general in our legal and constitutional system and with the norms and standards that govern the fair administration of justice,” the letter said. “We urge Congress to exercise its constitutional authority to investigate this troubling pattern of conduct, in order to assess Mr. Barr’s actions as attorney general and to consider any legislative and oversight responses and remedies that may be necessary.”

The DOJ did not immediately respond Thursday to a request for comment.

The letter, addressed to the leadership of the House and Senate, specifically cited an October speech at the University of Notre Dame, where Barr praised “Judeo-Christian” values as crucial to the nation’s founding and vowed to place the DOJ “at the forefront” of efforts to resist the “forces of secularization.”

It also outlined comments in separate addresses at a gathering of the Fraternal Order of Police and a subsequent DOJ awards ceremony, in which Barr assailed a “progressive holy war” on the rule of law, and attacked big-city district attorneys for

stoking anti-law-enforcement sentiment in communities following police-involved shootings. In those remarks, Barr said, "if communities don't give that support and respect, they might find themselves without the police protection they need."

"Mr. Barr did not specify which 'communities' were at risk of seeing decreased police protection because they lack respect for law enforcement, but his comment was understood by some observers, not unreasonably, as being directed toward members of communities of color protesting excessive use of force by police," the city bar's letter said.

The latest provocation was not the first time the city bar has tussled publicly with Barr over his actions in office.

In October, the organization demanded that Barr recuse himself from any DOJ investigations pertaining to the Trump administration's dealings with Ukraine, after Barr was named in a whistleblower complaint alleging that President Donald Trump had asked his Ukrainian counterpart to investigate his political rival, Joe Biden.

The city bar took no position on the legality of the phone call or merits of the whistleblower's complaint, but said the mention of Barr's name was enough to require his recusal from the probe.

That call elicited praise from many in New York's legal community, but also drew criticism from some who said it could be perceived as politically motivated.

Barr has not commented on the earlier demand, and has not recused himself from the Ukraine matter.

Wednesday's letter also cited statements Barr made about a DOJ inspector general's report, which found no improper political motivation behind the Federal Bureau of Investigation's counterintelligence investigation of alleged ties between President Donald Trump's presidential campaign and Russian officials in 2016, but did identify procedural irregularities with the probe.

Barr, the letter said, rejected the IG's finding related to political bias, claiming that the FBI's factual predicate was "insufficient to justify" its investigation and that the bureau may have acted in "bad faith" in launching the probe.

"These public statements by Mr. Barr also contravene the norms applicable to his office and warrant further investigation by Congress as part of an inquiry into Mr. Barr's conduct as Attorney General more generally," the letter said.

"They may even implicate ethical considerations, insofar as prosecutors must generally avoid public comments on ongoing investigations and must not manifest any bias or prejudice based on race, religion, sexual orientation or partisan political considerations in exercising their prosecutorial discretion," it said.

The city bar, again, took no position on whether Barr may have violated the Rules of Professional Conduct, but expressed "significant concerns" about the propriety of Barr's recent statements.

"In a troubling number of instances, Mr. Barr has spoken and acted in a manner communicating an impression that he views himself as serving as the attorney general not for the entire nation, but more narrowly for certain segments of society—whether defined in terms of religion, ideology ... or party affiliation," it said.

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